IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 28TH JULY 2006 / 6TH SRAVANA 1928

ST.Rev..No. 183 of 2006()

TA.74/2004 of S.T.A.T.ADDL.BENCH,ERNAKULAM
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PETITIONER/RESPONDENT/APPELLANT/ASSESSEE:

M/S. INFRA HOUSING (P) LTD.,
M.G.ROAD, ERNAKULAM, REPRESENTED BY ITS DIRECTOR,
JOHN GEORGE.

BY ADV. SRI.K.I.MAYANKUTTY MATHER
SRI.SUNIL SHANKER

RESPONDENTS: APPELLANT/RESPONDENT/REVENUE:

STATE OF KERALA,
REPRESENTED BY DEPUTY COMMISSIONER (LAW),
COMMERCIAL TAXES, ERNAKULAM.

BY GOVT. PLEADER SRI. V.V. ASOKAN.

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION ON 28/07/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR & K.M.JOSEPH, JJ.

S.T.Rev. No. 183 OF 2006

Dated this the 28th day of July, 2006.

JUDGMENT

C.N.Ramachandran Nair, J.

This Sales Tax Revision Case is filed against the order of the Tribunal declining deduction claimed by the petitioner on value of goods purchased and used in civil construction work. Petitioner, admittedly, was engaged in construction of buildings and applied for payment of tax at compound rates as provided in Section 7(7) of the KGST Act. Tax was assessed and demanded on contract amount at the rate of 2% as provided under the said section. Petitioner requests for remittance of tax at compound rate based on Form No.21B filed by the petitioner under Rule 30A of the KGST Rules. Petitioner's case is that petitioner is entitled to rebate of tax on the tax paid on purchase of materials, which are used in the execution of works contract. However, the Tribunal held that the petitioner is not entitled to benefit of deduction under Rule 30(4) of the KGST Rules because the only Rule that applies to the petitioner is Rule 30A of the KGST Rules.

2. On going through the relevant provisions of the Statute, we find that the rebate on tax paid in the nature claimed by the petitioner is not admissible under Section 7(7) of the KGST Act and it provides for payment of flat rate of 2% on civil construction contract, such as construction of buildings, bridges, roads etc. Deductions provided under Rule 30(4) of the KGST Rules are deductions admissible to contractors paying tax under Section 7(7A) and also to arrack dealers paying tax under Rule 7(14) of the KGST Rules. The Rule cannot go beyond the scope of the Act. The type of deductions claimed by the petitioner under Rule 30(4) of the KGST Rules are found in Section 7 (7A) of the KGST Act and not in Section 7(7), under which petitioner has paid tax. Therefore we are of the view that the finding of the Tribunal that the petitioner is covered by Section 7(7) of the KGST Act read with Rule 30A of the KGST Rules, which did not provide for any deductions from the compounded rate of tax payable by Civil Contractors, is perfectly correct.

We therefore dismiss the Sales Tax Revision Case.

(C.N.RAMACHANDRAN NAIR, JUDGE)

(K.M. JOSEPH, JUDGE)

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K.S.RADHAKRISHNAN & K.M.JOSEPH, JJ.

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